

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RODNEY HERNANDEZ,
Plaintiff,

No. 1:09-cv-037

-v-

HONORABLE PAUL L. MALONEY

CINDI CURTAIN,
Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION OVER OBJECTIONS

Plaintiff Hernandez, a prisoner under the control of the Michigan Department of Corrections (MDOC) filed a civil rights suit under 42 U.S.C. § 1983 alleging violations of his Due Process rights. The parties filed cross motions for summary judgment.¹ The magistrate judge issued a report and recommendation (Dkt. No. 47) in which he recommends granting Defendant Curtain's motion and denying Plaintiff's motion. Plaintiff filed objections. (Dkt. No. 50.) A district court judge reviews *de novo* the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b). Only those objections that are specific are entitled to a *de novo* review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam).

Having read the report and recommendations and Plaintiff's objections, the report and recommendation is **ADOPTED** as the opinion of the court. Plaintiff does not dispute the magistrate judge's proposed findings of fact. Plaintiff does add additional details, none of which alter the underlying premise of his complaint or create a genuine issue of material fact precluding summary judgment. The magistrate judge correctly explains why the facts alleged are not sufficient to create

¹The magistrate judge interpreted Plaintiff's response (Dkt. No. 42), in which he requested summary judgment in his favor, as a cross motion for summary judgment.

a claim for constitutional relief.

IT IS HEREBY ORDERED:

1. The report and recommendation is **ADOPTED OVER OBJECTIONS** as the opinion of the court.
2. Defendant Curtain's motion (Dkt. No. 23) for summary judgment is **GRANTED**.
3. Plaintiff Hernandez's motion (Dkt. No. 42) for summary judgment is **DENIED**.
4. Having reviewed the issues again, the court concludes any appeal would not be taken in good faith.

Date: November 6, 2009

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge